

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

THEOPRIC BLOODSAW,

Petitioner,

No. C 13-1349 PJH (PR)

vs.

S. RISENHOOVER,

Respondent.

**ORDER GRANTING LEAVE
TO PROCEED IN FORMA
PAUPERIS, DISMISSING
PETITION, AND DENYING
CERTIFICATE OF
APPEALABILITY**

This is a habeas case filed pro se by a state prisoner. While petitioner sets forth the facts of his conviction, most of the claims in the petition involve conditions of petitioner's confinement, not the fact of his conviction or the length of it, and thus may not be raised in a habeas petition. See *Badea v. Cox*, 931 F.2d 573, 574 (9th Cir. 1991) (civil rights action is proper method of challenging conditions of confinement); *Crawford v. Bell*, 599 F.2d 890, 891-92 & n.1 (9th Cir. 1979) (affirming dismissal of habeas petition on basis that challenges to terms and conditions of confinement must be brought in civil rights complaint). Petitioner alleges that prison officials are conspiring to overthrow the United States government and conspiring against petitioner. Petitioner has filed forty-four previous cases in this court.

Petitioner's previous habeas petition directed to the same conviction was dismissed with prejudice as barred by the statute of limitations, see *Bloodsaw v. Woodford*, C 06-2929-GHK-E (C.D. Cal. Jan. 19, 2007) (order adopted report and recommendation and dismissing petition with prejudice), so any claims in this petition that might be construed as going to the conviction would be second or successive. Because petitioner has not obtained an order from the court of appeals allowing him to file a second or successive petition, any habeas claims that might be discerned in the petition are barred. See 28

1 U.S.C. § 2244(b)(3)(A). In short, the petition must be dismissed. Due to the frivolous
2 nature of this action and the large amount of similar cases filed by petitioner, the case will
3 not be re-designated as a civil rights action with leave to amend.

4 Petitioner's motion for leave to proceed in forma pauperis (Docket No. 2) is
5 **GRANTED**. The petition is **DISMISSED** for the reasons set out above. Because
6 reasonable jurists would not find the result here debatable, a certificate of appealability
7 ("COA") is **DENIED**. See *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000) (standard for
8 COA). The clerk shall close the file.

9 **IT IS SO ORDERED.**

10 Dated: April 2, 2013.



PHYLLIS J. HAMILTON
United States District Judge

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